

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF WEST VIRGINIA

TONY B. CLAY,

Plaintiff,

v.

Civil Action No. 5:12-cv-92

CONSOL PENNSYLVANIA COAL
COMPANY LLC, a foreign limited liability
Company and subsidiary of CONSOL
ENERGY, INC., McELROY COAL
COMPANY, a foreign corporation
and subsidiary of CONSOL ENERGY,
INC., and CONSOL ENERGY, INC.,
a foreign corporation,

Defendants.

**PLAINTIFF'S MOTION TO COMPEL DEFENDANTS TO SERVE COMPLETE
DISCLOSURES PURSUANT TO RULE 26(a)(1)(A)(i)**

Plaintiff Tony B. Clay, by counsel, pursuant to Fed.R.Civ.P. 26(a)(1)(A)(i) and Fed.R.Civ.P. 37(a)(3)(A) hereby moves this Honorable Court to enter an order compelling Defendants Consol Pennsylvania Coal Company, Consol Energy, Inc., and McElroy Coal Company to furnish Plaintiff with the addresses and phone numbers, if known, of each of the individuals identified by the Defendants in their initial disclosures. Plaintiff further moves this Honorable Court, pursuant to Rule 37(a)(5), that Defendants, Defendants' counsel or both be ordered to pay Plaintiff's reasonable expenses, including attorneys' fees incurred in bringing this motion. Plaintiff's counsel has conferred with Defendants' counsel in a good faith effort to resolve this dispute without involving the Court.

Pursuant to Fed.R.Civ.P. 26(a)(1)(A)(i), without awaiting a discovery request, the defendants were required to furnish "the names and, if known, the address and telephone number of each individual likely to have discoverable information...." *See Bowman v.*

Green Tree Servicing, Inc., 2012 WL 4849718 (N.D.W.V. 2012). Despite the undersigned counsel's repeated efforts to convince defendants' counsel of defendants' obligations under Rule 26, Defendants have failed to provide the addresses and telephone numbers of all but one of 22 individuals identified by the defendants in their initial disclosure.

Accordingly, for all of the foregoing reasons, as well as those set forth in Plaintiff's Memorandum of Law in Support of Plaintiff's Motion to Compel Defendants to Serve Complete Disclosures Pursuant to Rule 26(a)(1)(A)(i), Plaintiff moves this Honorable Court for entry of an order compelling the Defendants to furnish addresses and phone numbers, if known, of each of the individuals identified in Defendants' initial disclosures, as well as, an award of expenses and fees.

TONY B. CLAY, Plaintiff

By /s/ D. Kevin Coleman
Counsel for Plaintiff

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of **PLAINTIFF'S MOTION TO COMPEL DEFENDANTS TO SERVE COMPLETE DISCLOSURES PURSUANT TO RULE 26(a)(1)(A)(i)** was served upon counsel of record by electronic filing this 22nd day of January, 2013:

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TONY B. CLAY, Plaintiff

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